

## HUTTON & HUTTON

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Office Tax I.D. # 48-0966751

16 May 2013

Sent via U.S. Mail and facsimile to: 914.390.4278

The Honorable Cathy Seibel  
The Hon. Charles L. Brieant, Jr.  
Federal Building and United States Courthouse  
300 Quarropas St.  
White Plains, NY 10601-4150

RE: *In re Mirena IUD Prods. Liab. Litig.*, 7:13-md-2434-CS (S.D.N.Y.)

Dear Judge Seibel:

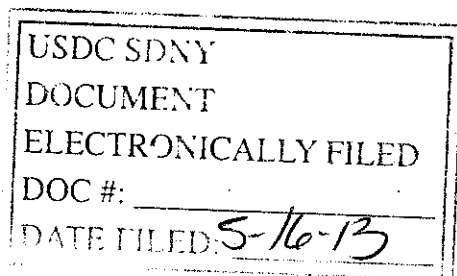
Please forgive the fact that this letter is not a formal filing. We have no case number yet against which to file, given that we filed our first case in this litigation somewhat later than have other firms, having learned long ago the importance of screening cases very carefully before filing. Today we received notice of CTO-4, which should put our first case before this Court very shortly. That said, through this letter we respectfully seek to comment on the recent submissions from the "organizing plaintiffs" regarding the need for and/or formation of the PSC, in the hopes that you will receive and accept our comments prior to the scheduled conference this Friday.

Although we reached out to proposed lead counsel, we have had no response and have been unable to share with them our position on the PSC matters. We concur with the currently proposed leadership that a PSC is necessary, but believe it important that the Court appoint its members to ensure a broad spectrum of experience and avoid any appearance of unfairness that might result from lead counsel-selected appointments, regardless how slight that appearance may be. Should the Court choose to appoint the PSC members, we advise that we plan to apply for a position on that committee. For the Court's convenience, we attach my CV and advise that we will file this letter, the CV, and a Certificate of Good Standing as soon as our case reaches this Court. Thank you for your consideration, Your Honor.

Sincerely,



Mark B. Hutton



**MARK B. HUTTON**

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Born Newton, Kansas, December 31, 1953.

**ADMISSIONS:** Admitted to Bar, 1979, Kansas and U.S. District Court, District of Kansas; 1984, U.S. Court of Appeals, Tenth Circuit; 1986, U.S. Supreme Court; 1987, Oklahoma; 1990, U.S. Court of Federal Claims; 1991, U.S. Court of Appeals, Fifth Circuit; 1993, U.S. District Court, Western and Eastern Districts of Arkansas; 1993, U.S. District Court, District of Arizona; 1997, U.S. District Court, Districts of Colorado and Hawaii; 1997, Creek Nation Tribal Court of the State of Oklahoma; 1997, Lower Brule Sioux Tribal Court; 1999, Supreme Court of Texas; 2000, Supreme Court of Missouri; 2002, District of Columbia; 2009, Supreme Court of New York; 2009, Western and Northern Districts of Oklahoma.

**EDUCATION:** Washburn University of Topeka (B.B.A., 1976; J.D., 1979). Phi Kappa Phi.

**APPOINTMENTS:** *Appointed* by the Honorable Samuel C. Pointer, Jr., Chief Judge of the Northern District of Alabama, to the Plaintiffs' Steering Committee (PSC) of MDL-926 *In Re: Silicone Gel Breast Implant Litigation*. *Appointed* by the Honorable Richard A. Schell, Chief Judge of the Eastern District of Texas, to the Plaintiffs' Steering Committee of the *In Re: Norplant Contraceptive Prods. Liab. Litig.*, of MDL 1038. *Appointed* by President George W. Bush to the President's Advisory Committee of the Arts and the John F. Kennedy Center for the Performing Arts, 2004 to 2009. *Appointed* Chief Counsel for the McCain-Palin Campaign for the State of Kansas. *Appointed* Member of the Kansas Bar Association's Committee on Professionalism.

**RECIPIENT:** Selected by his peers as one of the Best Lawyers in America for the years 1999 to 2012; Selected by his peers as one of the Missouri/Kansas Super Lawyers for the years 2005 to 2012; Selected by his peers as Top 100 Missouri/Kansas Super Lawyers for the years 2005 to 2007; Selected by his peers and featured in the *Wichita Magazine* as one of Wichita's Top Attorneys; Trial Lawyer of the Year Award, Trial Lawyers for Public Justice, 1986.

**PRACTICE AREAS:** Pharmaceuticals; Medical Malpractice; Products Liability; Personal Injury; Qui Tam; Commercial Litigation.

**MASS TORT EXPERIENCE:** 23 MDLs and/or Mass Torts: Accutane; Actos; Avandia; Baycol; Bextra; Celebrex; Breast Implants; Digitek; Ephedra; Fen-Phen; Fosomax; Hip Implants (DePuy); Knee Implants (Zimmer, DePuy); Kugel Mesh; MMR Vaccine; Norplant; Pelvic Mesh; Polio Vaccine; SSRI Antidepressants; Transvaginal Mesh; Trasylol; Vioxx; Yaz.

**TRIAL EXPERIENCE:** Litigated in excess of sixty jury trials to verdict and appeal, including: *Wooderson v. Ortho Pharmaceutical Corp.*, 235 Kan. 387 (1984); *Arvayo v. United States of America*, 580 F. Supp. 753 (1984), 766 F.2d 1416 (1985); *Johnson v. American Cyanamid Co.*, 239 Kan. 279 (1986); *Ogilvie v. International Playtex*, 821 F.2d 1438 (1987); *Gregory v. Carey*, 246 Kan. 504 (1990); *Donnini v. Ouano*, 810 P.2d 1163 (1991); *Aves, et al. v. Shah*, 997 F.2d 762 (10th Cir. 1993); *Aldoroty v. HCA Health Services of Kansas, d/b/a Wesley Medical Center*, No. 95C-1790 (Sedgwick County, Kan., 18th Judicial District Court of Kansas); *Duncan v. West Wichita Family Physicians, P.A.*, No. 06CV0761 (Sedgwick

County, Kan. 18th Judicial District Court of Kansas); Kerns v. HCA Wesley Rehabilitation Hospital, Inc., No. 08CV0353 (Sedgwick County, Kan. 18<sup>th</sup> Judicial District Court of Kansas). Lead counsel in many additional cases that have gone to trial or settled during trial or post-verdict.

CERTIFICATIONS: Civil Trial Advocacy by American Board of Trial Advocates, 1988.

Memberships and Activities: Selected Member of Litigation Counsel of America; Selected Member of American Board of Trial Advocates; Selected Member of The Wesley E. Brown American Inn of Court, 2008 to 2013; Member of Wichita, Kansas, American and International Bar Associations; Member of Kansas Association for Justice; Member of Oklahoma Trial Lawyers Association; Member of Trial Lawyers for Public Justice; Member of American College of Legal Medicine. Featured Speaker at numerous Continuing Legal Education programs. Former Ethics Investigator for the Wichita Bar Association. Serves as Mediator at request of Wichita-area plaintiff and defense attorneys.

PUBLICATIONS: Author: "Medical Malpractice Mediation Panels," Vol. 2, No. 1, Journal of the Kansas Trial Lawyers Association. Co-Author: "A Paradox - The Kansas Collateral Source Rule," Vol. 2, No. 3, Journal of the Kansas Trial Lawyers Association. Author: "Substantial Possibility: A Doctrine of Causation," Vol. 3, No. 2, Journal of the Kansas Trial Lawyers Association. Author: "Motion in Limine: A Mandatory Pre-Trial Motion in Civil Litigation," Journal of the Kansas Trial Lawyers Association, Vol. 4, No. 5. Author: "Pharmaceutical Litigation-Drug Manufacturers Duty to Warn," Vol. 5, No. 5, Journal of the Kansas Trial Lawyers Association. Author: "Medical Tort Law: The Emergence of Specialty Standard of Care," Tulsa Law Journal, Vol. 16, 4, 1981. Author: "Intrusion into the Sanctimonious Physician-Patient Relationship," Journal of the Kansas Trial Lawyers Association, Vol. 7, No. 1, Aug. 1983. Author: "The Privilege Log: Where the Battle Can Be Won or Lost," Journal of the Kansas Trial Lawyers Association, Vol. 19, No. 6, July 1996. Author: "Genetic Susceptibility to Complications from Silicone Breast Implants," Vol. 4, No. 5, April 1996, Medical-Legal Aspects of Breast Implants Reporter. Author: "In the Wake of 'Medtronic,' Court Rejects Baxter's Preemption Claim," Vol. 5, No. 6, May 1997, Medical-Legal Aspects of Breast Implants Reporter. Co-Author: "Documenting the Neurological Impact of Exposure to Silicone," Vol. 6, No. 2, Jan. 1998, Medical-Legal Aspects of Breast Implants Reporter. Co-Author: "Further Studies of the Link Between Breast Implants and Disease," Vol. 6, No. 12, Nov. 1998, Medical-Legal Aspects of Breast Implants Reporter. Co-Author: "Debate Rages On: Studies Link Breast Implants and Disease," Vol. 7, No. 1, Dec. 1998, Medical-Legal Aspects of Breast Implants Reporter. Co-Author: "Reye's Syndrome - The Link Between Aspirin and Reye's," Trial, Nov. 1987. Author: "Tampons and Toxic Shock Syndrome - Failure in Corporate Risk Management," Trial, Feb. 1988. Author: "Norplant Litigation: Creating an Exception to the Learned Intermediary Doctrine," Trial, July 1996. Co-Author: "Smokeless Tobacco: An Unrecognized Health Problem," The Advocate - The Journal of the Oklahoma Trial Lawyers Association, Vol. 28, No. 2, 2nd Qtr. 1997; Consumer Attorneys of California Forum, Vol. 27, No. 7, Sept. 1997; and Journal of the Kansas Trial Lawyers Association, Vol. 20, No. 5, May 1997. Author: "Alert to Plaintiffs: New Study Links Implants to Silicone in Liver," Medical-Legal Aspects of Breast Implants Reporter, Vol. 5, No. 3, Feb. 1997.

COMMUNITY SERVICE: Member of the Board of Directors, Community Bank of Wichita, Kansas; Member of the Board of Directors, Title Midwest of Topeka, Kansas; Routine Volunteer at The Lord's Diner, Wichita, Kansas; Volunteer at Salvation Army Christmas Distribution Center; Volunteer at Children's Orphanage in Cusco, Peru.

Mark B. Hutton

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### FACSIMILE COVER SHEET

DATE: 05/16/2013 TIME: 11:58 a.m.  
TO: Judge Cathy Seibel FAX NO. (914) 390-4278  
FROM: Mark B. Hutton NO. OF PAGES: 3  
RE: *In re Mirena IUD Prods. Liab. Litig.*, 7:13-md-2434-CS (S.D.N.Y.)

### SPECIAL MESSAGE AND/OR INSTRUCTIONS:

Letter with attached CV

Thank you,  
Sharon Fornshell

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